

ESTTA Tracking number: **ESTTA451059**

Filing date: **01/13/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91203266
Party	Defendant TruHealth, LLC
Correspondence Address	KYLE T. PETERSON PATTERSON THUENTE CHRISTENSEN PEDERSEN, 4800 80TH SOUTH 8TH ST 4800 IDS CTR MINNEAPOLIS, MN 55402 trademark@ptslaw.com
Submission	Answer
Filer's Name	Kyle T. Peterson
Filer's e-mail	trademark@ptslaw.com
Signature	/s/ Kyle T. Peterson
Date	01/13/2012
Attachments	Answer to Notice of Opposition - Stay Tru To Your Health.pdf (7 pages)(93954 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 85/363,410
For the mark: STAY TRU TO YOUR HEALTH
Filed: July 5, 2011
Published: December 6, 2011

BOB’S RED MILL NATURAL FOODS, INC.	X	
Opposer,	:	
	:	Opposition No. 91203266
	:	
v.	:	ANSWER TO NOTICE OF
	:	OPPOSITION
	:	
TRUHEALTH, LLC.	:	
Applicant.	:	
	X	

TRUHEALTH, LLC. (“Applicant”), a limited liability company organized and existing under the laws of Minnesota, located and doing business at 6429 Goodrich Ave., St. Louis Park, Minnesota 55426, answers the Notice of Opposition filed by Bob’s Red Mill Natural Foods, Inc. (“Opposer”) as follows:

1. Applicant lacks information sufficient to form a belief as to the truth or falsity of the allegations contained in Opposer’s first numbered paragraph and therefore denies same.
2. Applicant lacks information sufficient to form a belief as to the truth or falsity of the allegations contained in Opposer’s second numbered paragraph and therefore denies same.
3. Applicant lacks information sufficient to form a belief as to the truth or falsity of the allegations contained in Opposer’s third numbered paragraph and therefore denies same.

4. Applicant lacks information sufficient to form a belief as to the truth or falsity of the allegations contained in Opposer's fourth numbered paragraph and therefore denies same.
5. Applicant denies the allegations contained in Opposer's fifth numbered paragraph.
6. Opposer's sixth numbered paragraph does not require a response.
7. Opposer's seventh numbered paragraph does not require a response.
8. Applicant denies the allegations contained in Opposer's eighth numbered paragraph.
9. Applicant denies the allegations contained in Opposer's ninth numbered paragraph.
10. Opposer's tenth numbered paragraph does not require a response.
11. Applicant admits the allegations contained in Opposer's eleventh numbered paragraph.
12. Applicant lacks information sufficient to form a belief as to the truth or falsity of the allegations contained in Opposer's twelveth numbered paragraph and therefore denies same.
13. Applicant lacks information sufficient to form a belief as to the truth or falsity of the allegations contained in Opposer's thirteenth numbered paragraph and therefore denies same.
14. Applicant denies the allegations contained in Opposer's fourteenth numbered paragraph.

15. Applicant denies the allegations contained in Opposer's fifteenth numbered paragraph.
16. Applicant denies the allegations contained in Opposer's sixteenth numbered paragraph.
17. Applicant denies the allegations contained in Opposer's seventeenth numbered paragraph.
18. Applicant denies the allegations contained in Opposer's eighteenth numbered paragraph.
19. Applicant denies the allegations contained in Opposer's nineteenth numbered paragraph.

FIRST AFFIRMATIVE DEFENSE

Opposer's Notice of Opposition fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

Opposer has no standing to assert the claims set forth in the Notice of Opposition.

THIRD AFFIRMATIVE DEFENSE

Opposer's claims are precluded by the Doctrine of Estoppel.

FOURTH AFFIRMATIVE DEFENSE

Opposer's claims are precluded by the Doctrine of Acquiescence.

FIFTH AFFIRMATIVE DEFENSE

Opposer's claims are precluded by the Doctrine of Waiver.

SIXTH AFFIRMATIVE DEFENSE

Opposer's claims are precluded by the Doctrine of Laches.

SEVENTH AFFIRMATIVE DEFENSE

Opposer's claims are precluded by the Doctrine of Unclean Hands.

EIGHTH AFFIRMATIVE DEFENSE

Opposer's claims are precluded by the Doctrine of Res Judicata.

NINTH AFFIRMATIVE DEFENSE

Opposer has abandoned its alleged trademark rights to the mark TO YOUR GOOD HEALTH and has not used the TO YOUR GOOD HEALTH mark as a trademark for more than the last three years.

TENTH AFFIRMATIVE DEFENSE

Opposer has failed to maintain its alleged TO YOUR GOOD HEALTH mark as a source identifier.

ELEVENTH AFFIRMATIVE DEFENSE

Applicant's trademark for STAY TRU TO YOUR HEALTH is not confusingly similar to any valid trademark of Opposer.

TWELVTH AFFIRMATIVE DEFENSE

Opposer is not damaged by registration of the mark STAY TRU TO YOUR HEALTH.

Applicant reserves the right to amend its answer to add additional or other affirmative defenses as may become necessary after a reasonable opportunity for appropriate discovery.

WHEREFORE, Applicant requests dismissal of the Notice of Opposition and issuance of a registration of its Application Serial No. 85/363,410 and such other and further relief as may be just and proper.

Dated January 13, 2012

Respectfully submitted,

PATTERSON THUENTE
CHRISTENSEN PEDERSEN, P.A.

By: /s/ Kyle T. Peterson
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Attorneys for Applicant TruHealth, LLC

CERTIFICATE OF TRANSMITTAL

I hereby certify that a true copy of the foregoing ANSWER TO NOTICE OF
OPPOSITION is being filed electronically with the TTAB via ESTTA on this day, January 13,
2012.

/s/ Kyle T. Peterson
Attorneys for Applicant TruHealth, LLC

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	:	OPPOSITION
	:	
TRUHEALTH, LLC.	:	
Applicant.	:	
-----X	:	

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing ANSWER TO NOTICE OF OPPOSITION
has been served on Opposer by depositing said copy with the United States Postal Service as
First Class Mail, postage prepaid, in an envelope addressed to:

Dallas Thomsen
Sussman Shank LLP
1000 SW Broadway, Suite 1400
Portland, OR 97205

Dated: January 13, 2012

/s/ Kyle T. Peterson
Attorneys for Applicant TruHealth, LLC